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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

Documents submitted in compliance with a request of the Committee under article 9, paragraph 1, of the Convention*

NIGERIA

[3 August 1995]

Introduction

1. The Government of the Federal Republic of Nigeria in its tenth to thirteenth periodic reports presented pursuant to article 9 of the International Convention on the Elimination of all Forms of Racial Discrimination assured the Committee of its cooperation at all times. The submission of additional information in the present report is intended to reaffirm that commitment and also to provide such useful and further information called for by the Committee at its twelfth session. 1/ The present report, apart from updating the records of the Committee, focuses on the Government's programmes and plans for the future.

2. The present Administration, which assumed power on 17 November 1993, was a child of circumstances, brought into being and nurtured in the peculiarity of its time and situation. It assumed power to stop the nation from its

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* The present document contains additional information pursuant to a request of the Committee in its concluding observations adopted on 17 August 1993 and additional information to that contained in the thirteenth periodic report of Nigeria (CERD/C/263/Add.3).

1/ See also the additional information provided by the Government of Nigeria in document CERD/C/283, of 19 April 1995.

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apparent drift, and possible collapse. The primary objective of the Administration therefore was to ensure the corporate existence of the nation and restore some modicum of confidence among the diverse multicultural and ethno-linguistic groups that make up the country.

3. In the special circumstances in which the Administration found itself, dealing with the issue of law and order was a major task and it had to balance the group interests of the majority of Nigerians against those of a few individuals. It was guided in that process by the realization that law, after all, is only a means to an end and that end is to assist in solving problems of the society for which it exists.

4. In the promulgation of new decrees or the implementation of existing laws, every effort has been made to balance such delicate but sometimes conflicting interests of individuals with those of the larger societal ones. The present Administration, however, made sure that the fundamental human rights of the average Nigerian, as provided for in the 1979 Constitution, were not unduly tampered with in the circumstances.

5. In assessing the performance of the present Administration on human rights issues, it may be useful to remind ourselves that "law is not the homeless, wandering ghost. It is a phase of human life located in time and space. We judge it not by its intellectual perfections or consistency but by the extent to which it meets our moral standards and needs".

6. We recognize that, today, the rights of individuals or groups are not restricted to domestic laws but are also the subject of international politics and law and are no longer restricted to domestic concerns alone.

7. Accordingly, the laws and measures taken by the present Administration have been tailored to deal specifically with the debilitating problems of the law and order situation prevailing in the country. They will be repealed or abolished when the special circumstances that necessitated their promulgation or implementation cease to exist. In any case, the track record of Nigeria on matters relating to human rights are well known. The picture will certainly become clearer when the Administration unfolds its blueprints on the transition programme on 1 October 1995.

8. We would like to emphasize, however, that the Federal Republic of Nigeria, as a sovereign and indivisible nation, imbued with the power and authority to make laws for the order and good governance of the country has consistently fostered, promoted, protected and encouraged the development of fundamental human rights in all their facets. It has, in recognition of its obligation as a State party to this Convention, made laws within its jurisdiction and competence and without violating the import of the definition of racial discrimination in article 1 of the Convention. Accordingly, the Federal Government of Nigeria, in conformity with article 1, paragraphs 2, 3, and 4, has taken special measures to secure adequate advancement for its own citizens and in some cases special groups were necessary without violating the basic rights of non-citizens living in Nigeria, bearing in mind, however, that we live in an interdependent world.

Information relating to the provisions of articles 2 to 7 of the Convention

9. The Federa Republic of Nigeria, with a population of about 98 million as at August 1995, consists of 30 states and the mayoralty of Abuja, the new federal capital. With 593 local government councils and over 250 ethnic groups having diverse cultures and languages, Nigeria is indeed multiracial in composition. In spite of the heterogenous nature of the country, Nigeria has over the years forged and lived in unity and harmony as one indivisible sovereign nation. The Federal Constitution, as adopted in 1979 and modified slightly to suit present circumstances, has to all intents and purposes provided a framework for promoting and protecting the ideals of a federation where groups and individuals, irrespective of race, colour, sex or religion can live in harmony.

10. In pursuance of its political objectives, the Federal Government has embarked upon development policies and put in place programmes aimed at encouraging group interests while maintaining the unity and sovereignty of the country. Conscious of the diverse ethno-linguistic groups and bearing in mind the need to bring the seat of government closer to the people as much as possible in order to enhance socio-economic development at the village level, the Federal Government has made provisions to fund directly the 593 local government councils. The Federal Government receives 48.5 per cent, the states 24 per cent, and the local government councils 20 per cent of the federal revenue.

11. In furtherance of the Government's integrationist policies and programmes, concrete steps have been taken to encourage rural development and promote feelings of belonging in the predominantly riverine states of the country where the bulk of the crude oil is produced. It has to be emphasized, however, that by law all mineral resources witnin the territory of Nigeria belong to the Federal Government. The enactment of the Oil Mineral Producing Areas Development Commission (OMPADEC) Decree No. 23 of 1992 with the objective, among others, of tackling the various ecological and environmental degradation problems, has been hailed as a welcome development.

12. The liberalization policies of the Government, as reflected in the 1989 Enterprises Promotion Decree which repealed that of 1977, were designed to attract foreign investment into the country. This, in turn, is expected to make available much needed capital and technical know-how for the development of the resources in the rural as well as in the urban areas of the country. The multiplier effect of the inflow of foreign capital in terms of job opportunities and transfer of technology will more than compensate any loss of opportunity in the participation by any group in the exploitation of mineral resources.

13. Section 15 of the 1979 Constitution of the Federal Republic of Nigeria provides for the political objective of the country - unity, faith, peace and progress. In the pursuit of these objectives, therefore, the Federal Government established secondary and tertiary institutions throughout the country designed to encourage and foster unity. The establishment in 1973 of the National Youth Service Corps Programme, under which young school graduates

are obliged to work in states other than those of their origin for one year, has not only proved successful but created a formidable esprit de corps among these youths throughout the country.

14. In pursuance of its political objective of unity in diversity, the Federal Government has taken several bold and innovative steps aimed at encouraging the development of interest groups. The establishment of a new Federal Ministry for Women Affairs and headed by a woman reflects the Government's commitment to encourage the development of programmes and policies in favour of women in order to create harmony of the sexes.

15. Other interest groups catered for through the establishment of commissions and programmes include the disabled, children and refuges. The impact of these national programmes and policies on the political objective of the country has been positive. Through these commissions, the Federal Government has been able to cater for the special needs of these groups by providing shelter and recreational facilities, education and better health facilities. In 1989 for instance, the Federal Government established the National Commission for Nomadic Education designed to provide education for the children of the nomadic population. It is important to stress that these programmes are established for the various interest groups, bearing in mind their social, economic and religious backgrounds.

16. Nigerians are warm, amiable and very accommodating people. They are however very conscious of their political and civic rights. Any denial of these rights by individuals or groups or Government are shortly resisted. This explains why many Nigerians go to court to seek redress whenever these rights are denied or violated. They become more agitated when they realize that the denial or violation of these rights has been perpetrated against them on account of their background or by reason only of their community, tribe or religion. In recognition of this sensitivity of the average Nigerian, the various Nigerian Constitutions since independence have made provision to ensure freedom from discrimination. Accordingly, section 39 of the 1979 Constitution of the Federal Republic of Nigeria provided for the protection of these rights.

17. The practical effect of this provision, which is largely in conformity with article 4 of the Convention, is that it enables every Nigerian, subject of course to restrictions imposed by law, to demand the full enjoyment of his political or civic rights. Any attempt by individuals or groups to cause disaffection against any person or group of persons or community, therefore, is adjudged by the Government as a violation of section 39. In order to balance societal interests, the Government has relied on the provisions of this section to call to order any attempt by individuals, groups or media houses to cause disaffection between one community and another. Media houses that thrived on the publication of materials that tended to promote the interests of the sector to the detriment of another have been dealt with according to the law. Any publication adjudged to incite one community against another has been seen as inimical to the overall interest of the unity of the country.

18. Section 39 (2) of the Constitution has been hailed by many in Nigeria as innovative and progressive, taking into consideration the prevailing social

and economic practices of the country. It enables any child, whatever the circumstances of his birth, to lay legitimate claim to inheritance in the estate of either of his parents.

19. It has to be emphasized that section 39 is an integral part of chapter IV of the 1979 Constitution, dealing with fundamental human rights. That chapter provides in essence for the rights to life, to the dignity of the human person, to personal liberty, to a fair hearing, to private and family life, to freedom of thought, conscience and religion, to freedom of expression and the press, to peaceful assembly and association, to freedom of movement, and to freedom from discrimination.

20. The Federal Government has ensured respect for the various freedoms provided for in the Constitution. The courts or special tribunals, as the case may be, established by law are obliged in their dispensation of justice to adhere strictly to these fundamental human rights. Failure to do so may result in appeal to a superior court or higher authority. Individuals or groups have availed themselves of that appelate system whenever they have felt that their rights have been violated.

21. The various rights enshrined in the 1979 Constitution are justiciable and anyone aggrieved, whether an individual, group or corporate body, citizen or non-citizen, in Nigeria can go before the courts. Records show that even state governments of the Federation have gone to court to obtain declaration of rights to property.

Article 2

22. In the area of the economy and investments, further restrictions have been removed. There has been deregulation by the instrumentality of the Nigerian Investment Promotion Commission Decree of 1995, which repealed the Nigerian Enterprises Promotion Decree of 1989. Any foreigner can invest in our economy. The Nigerian Export Processing Zones Decree, 1991, No. 34 promotes exportation with its provisions on export tax reduction.

Article 5

23. As stated in the thirteenth report, Decree No. 107 of 1993 did not erode the fundamental rights enshrined in the Nigerian Constitution. The different rights listed therein in paragraphs 30 to 40 remain protected in the Constitution.

24. The Nigerian courts have continued to play their expected role as an independent judiciary. If and when the rights are cited before any Nigerian court, they are recognized and upheld. In Alhaji Abba Tafifa vs. Alhaji Sa'adu Abubakar and others (1992) 3 NWLR, page 511, the Federal Court of Appeal held that the High Court had jurisdiction by virtue of Order I, Rule 3 (i) of the Fundamental Rights (Enforcement Procedure) Rules, 1979 to enlarge the time within which to commence an action for the enforcement of fundamental rights after the expiration of the prescribed period of 12 months. In Gani Fawehinmi vs. The State (1990) 1 NWLR, page 487, Babalakin, J.C.A.

applied the ruling of the Supreme Court in the case of Aroyewun vs. Adebanji (1976) II S.C. 33, where it was stated that unsuspended provisions of the Constitution would be strictly adhered to and that obedience to our Constitution should be the mood of the Nation.

25. Political rights, in particular the right to participate in elections on the basis of universal and equal suffrage, and other rights such as the right to freedom of movement and residence and the right to own property alone as well as in association with others are upheld.

Article 6

26. Section 42 of the 1979 Constitution provides that any person who alleges that any of his fundamental human rights has been or is likely to be violated may apply to a high court for redress. Apart from the state high courts, other courts of the land so empowered by the Constitution and other State institutions are open to anyone within Nigeria to seek redress, remedies and compensation.

27. In order to ensure that no individual whose right has been or is likely to be affected, is not disadvantaged by reason of finance, provision has also been made within the Constitution for legal aid to assist such individual or group to present his case before a competent court or tribunal.

28. The Government in special circumstances has risen to the defence of minority rights where appropriate to ensure fairness and equity. In situations of ethnic violence or clashes, the Government had set up Tribunals and called for memoranda to enable such tribunal to deal with cases of alleged seizure or abandonment of property. The findings or report of such tribunals have been found useful and acceptable to all concerned.

Article 7

29. The Nigerian Police Force has the reputation of being one of the best trained in dealing with conflict situations. Its record of involvement outside Nigeria, particularly in Africa and in some Caribbean countries in the 1970s and 1980s attests to this fact. It is able to deal with ethnic conflict situations without discrimination because of its central command structure at the federal level.

30. Other measures taken by the Federal Government to ensure compliance with article 7 of the Convention in combating racial prejudice while promoting racial harmony and understanding between nations include the establishment of the Technical Aid Corp Programme of the Ministry of Foreign Affairs, whereby young graduates of different disciplines volunteer to serve in developing countries for a given period. Every year the Ministry, upon request from developing countries mostly in Africa and the Caribbean, sends out an average of about 200 graduates to work in these countries. Their salaries and upkeep are borne by the Federal Government.

The Nigerian Criminal Code

31. As previously reported, the Government of Nigeria put in motion a process of law reform whereby the whole gamut of the Nigerian laws would be considered. In particular, a committee was set up on the review and reform of criminal laws and procedure. Specifically, the review of section 50 (2) of the Nigerian Criminal Code goes beyond the Criminal Code. The Nigerian Court of Appeal, reflecting the dynamism in the Nigerian Judiciary, in the case of Chief Arthur Nwankwo vs. The State (Nigerian Constitutional Law Reports (1985) para. 228) declared that section 50 (2) derogated from the freedom of speech guaranteed by section 36 of the Nigerian Constitution and to that extent was inconsistent. As part of the reform, the issue is currently being considered by the appropriate authority with a view to removing the constitutional hurdle.

32. The State policy against racial discrimination is clearly evident and cannot be compromised as the country works towards ethnic integration and religious harmony. It is constitutionally imperative to reflect the federal character of the nation through national or local facilities and institutions, etc. It is, therefore, necessary to reiterate that the provisions of section 39 of the Nigerian Constitution adequately exclude any form of discrimination.